

BEFORE THE FLORIDA JUDICIAL QUALIFICATIONS COMMISSION

INQUIRY CONCERNING A
JUDGE, No. 03-14

Case No.: SC 04-1

_____/

PREHEARING STATEMENT

Judge Henson, by and through his undersigned attorney, pursuant to the Hearing Panel's Order Scheduling Hearing and Prehearing Conference, files this Prehearing Statement in compliance with that Order.

A. Witnesses

Judge Henson expects to call (or examine on cross-examination) the following witnesses:

1. Honorable James E. Henson

Judge Henson will be questioned about all allegations currently remaining in the Amended Notice of Formal Charges.

2. Dr. Alberto Jimenez (Deposition only)

Dr. Alberto Jimenez will be questioned regarding contacts and conversation with Mr. Henson regarding Mr. Henson's representation of his daughter, Diana Jimenez.

3. Diana Jimenez (Deposition only)

Diana Jimenez will be questioned or cross-examined regarding allegations arising out Mr. Henson's representation of her as alleged in the Notice of Formal Charges.

4. Robert Nesmith, Esquire

Judge Henson does not expect to call Robert Nesmith, however reserves the right to cross-examine him on any and all matters pertinent to testimony which he

may give in this proceeding.

5. Michael K. Saunders

Michael K. Saunders will be questioned regarding timing and circumstances regarding pre-negotiations in the Diana Jimenez case between Mr. Saunders and Mr. Henson.

6. Jerry Lee Thompson

Judge Henson does not anticipate calling Jerry Lee Thompson as a witness, but reserves the right to cross-examine him regarding any and all matters to which he may testify in this proceeding.

7. Maria Jimenez (Deposition only)

Judge Henson does not anticipate calling Maria Jimenez as a witness, however reserves the right to cross-examine her on any testimony she has or may give in this case.

8. Rogelio Candelaria

Mr. Candelaria may be called to testify regarding actions he took, contacts he made, and conversations he participated in or witnessed regarding the allegations against Judge Henson.

9. Donald Henderson, Esquire, P.O. Box 2854, Orlando, Florida 32802.

Character witness.

10. Peyton Lea, Esquire, 319 North Ferncreek Avenue, Orlando, Florida 32803.

Character witness.

11. Possible impeachment witnesses regarding Robert Nesmith to be named later.

12. Possible additional character witnesses to be named later.

13. Judge Henson reserves the right to present written character reference letters from additional witnesses as permitted by Paragraph 7 of the Prehearing Order.

14. Kenneth H.P. Bryk, Esquire

Mr. Bryk may be called to testify with regard to The Florida Bar's Investigation with regard to the Diana Jimenez matter.

B. Judge Henson's Objections to JQC's Exhibit List

Exhibit 1 Objection-based on jurisdiction. See Judge Henson's Motion to Dismiss for Lack of Jurisdiction.

Exhibit 2 Objection-based on jurisdiction. See Judge Henson's Motion to Dismiss for Lack of Jurisdiction.

Exhibit 3 Objection-based on jurisdiction. See Judge Henson's Motion to Dismiss for Lack of Jurisdiction.

Exhibit 4 No objection.

Exhibit 5 No objection.

Exhibit 6 Objection, hearsay.

Exhibit 7 No objection.

Exhibit 8 Objection, hearsay.

Exhibit 9 Objection, hearsay.

Exhibit 10 Objection, hearsay.

Exhibit 11 Objection, hearsay.

Exhibit 12 Objection to all portions of this response beginning with the words "Gemini Bail Bonds/Rick Flood Paragraph 7" on Page 4 of 7 of said written response to Notice of Investigation 03-14 to and including the words "Attachments: fee contract and reminder letters" on Page

7 of 7. Irrelevant and prejudicial. These charges are no longer being pursued by the commission against Judge Henson. See Judge Henson's Motion in Limine.

Exhibit 13 Objections regarding any matters not currently pending as charges against Judge Henson on relevancy. Objection to any matters covered in Judge Henson's Motion to Dismiss Count I for Lack of Jurisdiction.

Exhibit 14 Objection, irrelevant. Contains uncharged misconduct. See Judge Henson's Motion in Limine.

Exhibit 15 No objection.

Exhibit 16 Objection as to any presently uncharged matters. See Judge Henson's Motion to Dismiss for Lack of Jurisdiction, Motion for Partial Summary Judgment and Motion in Limine.

Exhibit 17 Objection as to any presently uncharged matters. See Judge Henson's Motion to Dismiss for Lack of Jurisdiction, Motion for Partial Summary Judgment and Motion in Limine.

Exhibit 18 Objection. See Judge Henson's Motion for Partial Summary Judgment and Motion in Limine.

Exhibit 19 Objection, relevance. See Judge Henson's Motion in Limine and Motion for Partial Summary Judgment.

Exhibit 20 No objection.

Exhibit 21 No objection.

Exhibit 22 Objection. Does not comply with Court's Order as to specificity. Judge Henson produced a large number of documents at the request of Special Counsel regarding various cases. It is

impossible for Judge Henson to determine whether there are specific objections to these matters without knowing what documents Special Counsel intends to offer.

Exhibit 23 Objection, non-specific. It is impossible for Judge Henson to properly frame objection without knowing what documents are being requested. To date no documents have been requested to be produced at the hearing.

Exhibit 24 Objection, hearsay and relevance. (Assuming only the deposition of Diana Jimenez and Dr. Alberto Jimenez are going to be offered.)

C. Exhibits

Exhibit 1 Letter dated December 24, 2002 from Kenneth Bryk, Esquire of The Florida Bar to Dr. Alberto Jimenez regarding his complaint to The Florida Bar.

Exhibit 2 James Henson's Motion to Withdraw as Attorney of Record in State of Florida v. Jerry Thompson dated July 3, 2001.

Exhibit 3 Court's Order Granting Motion to Withdraw as Attorney of Record in the State of Florida v. Jerry Thompson filed July 10, 2001.

Exhibit 4 James Henson's Motion to Withdraw as Attorney of Record in State of Florida v. Jerry Thompson dated September 25, 2001.

Exhibit 5 Court's Order Granting Motion to Withdraw as Attorney of Record in the State of Florida v. Jerry Thompson dated September (October ?) 2, 2001.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by mail/fax delivery this ____ day of September, 2004 to MARK HULSEY, ESQ. and E. LANNY RUSSELL, ESQ., Special Counsel for the Florida Judicial Qualifications Commission, Smith Hulsey & Busey, 225 Water Street, Suite 1800, Jacksonville, Florida 32202 and JOHN R. BERANEK, ESQ., Ausley & McMullen, P.A., 227 South Calhoun Street, P.O. Box 391, Tallahassee, Florida 32301

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